

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS PUBLIC SERVICE) DOCKET NO.
COMPANY d/b/a AmerenCIPS) 09-0290
)
Petition for a Certificate of)
Public Convenience and Necessity)
pursuant to Section 8-406 of the)
Illinois Public Utilities Act, to)
construct, operate and maintain a)
gas pipeline in Williamson County,)
Illinois.)

Springfield, Illinois
Thursday, August 6, 2009

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MR. LARRY JONES, Administrative Law Judge

APPEARANCES:

MR. CHRISTOPHER FLYNN
MR. ALBERT STURTEVANT
JONES DAY
77 West Wacker, Suite 3500
Chicago, Illinois 60601
Ph. (312) 272-3939

(Appearing on behalf of
Petitioner)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710

1 APPEARANCES: (Continued)

2 MR. EDWARD FITZHENRY
3 Corporate Counsel
4 1901 Chouteau Avenue
5 Post Office Box 66149
6 Mail Code 1310
7 St. Louis, Missouri 63166
8 Ph. (314) 554-3533

9 (Appearing on behalf of
10 Petitioner)

11 MS. JENNIFER LIN
12 Office of General Counsel
13 160 North LaSalle, Suite C-800
14 Chicago, Illinois 60601
15 Ph. (312) 793-8183

16 (Appearing via teleconference
17 on behalf of Staff of the
18 Illinois Commerce Commission)

19 MR. JAMES OLIVERO
20 Office of General Counsel
21 527 East Capitol Avenue
22 Springfield, Illinois 62701
Ph. (217) 785-3808

(Appearing on behalf of Staff of
the Illinois Commerce
Commission)

MR. RAYMOND LAWLER
LAWLER AND LAWLER
P.O. Box 1733
Marion, Illinois 62959
Ph. (618) 889-4981

(Appearing via teleconference on
behalf of Intervenor Andrew
Bjornberg)

| | | | | | |
|----|----------------|------------------|--------------|-----------------|-----------------|
| 1 | | <u>I N D E X</u> | | | |
| 2 | | | | | |
| 3 | <u>WITNESS</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
| 4 | None . | | | | |
| 5 | | | | | |
| 6 | | | | | |
| 7 | | | | | |
| 8 | | | | | |
| 9 | | | | | |
| 10 | | | | | |
| 11 | | | | | |
| 12 | | | | | |
| 13 | | <u>EXHIBITS</u> | | | |
| 14 | | | | | |
| 15 | | | | <u>MARKED</u> | <u>ADMITTED</u> |
| 16 | None . | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| 22 | | | | | |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

PROCEEDINGS

JUDGE JONES: Good morning. I call for hearing Case Number 09-0290. This is titled in part Central Illinois Public Service Company d/b/a AmerenCIPS. It's a petition for a Certificate of Public Convenience and Necessity pursuant to Section 8-406 of the Illinois Public Utilities Act to construct, operate and maintain a gas pipeline in Williamson County, Illinois.

At this time we will ask the parties to enter their respective appearances for the record, starting with the petitioner AmerenCIPS.

MR. FLYNN: Christopher Flynn and Albert Sturtevanat, Jones Day, 77 West Wacker, Suite 3500, Chicago, Illinois 60601. Our telephone number is (312) 272-3939, appearing on behalf of petitioner.

MR. FITZHENRY: Also on behalf of the petitioner Central Illinois Public Service Company, my name is Edward Fitzhenry. My address is 1901 Chouteau Avenue, Post Office Box 66149, the Mail Code is 1310, St. Louis, Missouri 63166. My telephone number is area code (314) 554-3533.

1 JUDGE JONES: ICC Commission Staff?

2 MR. OLIVERO: Thank you, Your Honor. Appearing
3 on behalf of the Staff witnesses of the Illinois
4 Commerce Commission are Jennifer Lin and James
5 Olivero. Ms. Lin's address in Chicago is 160 North
6 LaSalle Street, Chicago, Illinois 60601 and her
7 telephone number is area code (312) 793-8183, and my
8 address is 527 East Capitol Avenue, Springfield,
9 Illinois 62701. And my telephone number is area code
10 (217) 785-3808.

11 JUDGE JONES: Thank you. Are there any other
12 appearances to be entered on behalf of either
13 AmerenCIPS or Commission Staff? Let the record show
14 there are not.

15 Are there any other appearances to be
16 entered at this time from anyone else who is
17 physically present in the hearing room here in
18 Springfield? Let the record show there are no other
19 appearances to be entered by others, at least at this
20 time.

21 MR. LAWLER: On the phone there is Attorney
22 Raymond Lawler.

1 JUDGE JONES: Yes, sir.

2 MR. LAWLER: Hello?

3 JUDGE JONES: Yes, go ahead, Mr. Lawler, and
4 identify yourself for us.

5 MR. LAWLER: Andrew Bjornberg,
6 B-J-O-R-N-B-E-R-G, and it is for a trust. And he is
7 on a plane right now so he couldn't appear so I am
8 appearing on his behalf. And my phone number and my
9 address is I am with Lawler and Lawler, P.O. Box
10 1733, Marion, Illinois 62959. My phone number is
11 (618) 889-4981.

12 JUDGE JONES: All right. Could you spell your
13 first and last name for the court reporter please?

14 MR. LAWLER: Lawler -- oh, first name is
15 Raymond, R-A-Y-M-O-N-D, Lawler, L-A-W-L-E-R, for
16 Andrew Bjornberg, B-J-O-R-N-B-E-R-G.

17 JUDGE JONES: And when you say you are
18 appearing for that person, what is it you are doing
19 there?

20 MR. LAWLER: We are objecting to the fact that
21 it is going to be used for any public use.

22 JUDGE JONES: Are you representing that person,

1 is that what you are saying?

2 MR. LAWLER: I am.

3 JUDGE JONES: All right, thank you. Are you
4 intending to file an intervening petition seeking
5 leave to intervene in this case?

6 MR. LAWLER: If it is necessary, I will, or I
7 thought maybe this might serve as that.

8 JUDGE JONES: Entering an appearance at the
9 hearing will not cause you to have intervenor status.
10 There will still need to be a Petition for Leave to
11 Intervene filed.

12 MR. LAWLER: Can I get an oral order to allow
13 us to intervene?

14 JUDGE JONES: You will have to file a written
15 Petition for Leave to Intervene in order to intervene
16 formally in the proceeding. That will need to be
17 filed in writing.

18 MR. LAWLER: Okay.

19 JUDGE JONES: Thank you, Mr. Lawler. Now, are
20 there any other appearances to be entered by those
21 who are on the phone? Okay. Let the record show
22 there are not, at least at this time.

1 Today's hearing is a prehearing
2 conference, so one of the primary things that we will
3 be taking up today will be the scheduling of the
4 case. As indicated in the notice that went out, no
5 witness testimony will be taken today. Similarly,
6 today will not be used to hear parties' positions on
7 the case. But the scheduling will be adopted to give
8 parties an opportunity to participate in the
9 proceeding.

10 Any scheduling that is adopted today
11 will also be put in a written ruling which I will
12 cause to be issued. That ruling will then appear on
13 the Commission's e-Docket on its website so that
14 anyone who wishes to see what that schedule is will
15 be able to do that by accessing the Commission's
16 website and then pulling up information off that,
17 including the schedule in the proceeding. That
18 website will also contain other filings that have
19 been made by parties such as the petition itself,
20 intervening petitions filed by others, and other
21 filings that are made in the course of the case,
22 including those that have been made already.

1 So in terms of scheduling, are there
2 any schedules to be proposed at this time?

3 MR. FLYNN: Yes, Judge.

4 JUDGE JONES: Would you identify yourself,
5 please?

6 MR. FLYNN: I'M sorry. For the people on the
7 phone, this is Chris Flynn speaking on behalf of the
8 petitioner. The Staff and the petitioner have
9 discussed a schedule that I can read to you and the
10 other participants now.

11 JUDGE JONES: Yeah, that will be fine. Again,
12 to those who are on the phone or in the room, for
13 that matter, if you are having any trouble hearing
14 anybody, just interrupt us and let us know. We will
15 do whatever we need to do to make sure that you can
16 hear whoever is speaking and following along.

17 Okay, Mr. Flynn, go ahead with your
18 scheduling proposal.

19 MR. FLYNN: Yes, Judge, Staff and Intervenor
20 testimony would be due on Tuesday, October 13.

21 There would be a status hearing on
22 Thursday, November 5.

1 Company rebuttal testimony would be
2 due Friday the 13th of November.

3 Staff and Intervenor rebuttal
4 testimony would be due Monday, December 7th.

5 Company surrebuttal testimony would be
6 due Wednesday December 27.

7 And hearings would commence on
8 Wednesday, January 20.

9 Now, just before we began Mr. Olivero
10 brought to my attention that we, as I understood what
11 he said to me, that we don't yet have the
12 Commission's schedule for 2010. And while we agreed
13 to the Wednesday, January 20 date, it is always
14 possible that there could be a Commission session
15 that day that could prove problematic. So we can
16 either leave that date as it is and adjust it on
17 November 5 at the status if we have to or make some
18 adjustment now.

19 Jim, would you expect that we would
20 have the Commission schedule by the time of the
21 status hearing?

22 MR. OLIVERO: Oh, yes, I would presume so, but

1 I think Judge Jones would know better. I think they
2 come out in October, is it? But I am not positive.

3 JUDGE JONES: Any Wednesday does carry a fairly
4 high risk of it being a Commission meeting date which
5 would impact the hearing. So if you --

6 MR. FLYNN: We haven't discussed this with the
7 Staff but we would be fine with Thursday, January 21.
8 I don't know if that's in conflict with Staff or not
9 and I don't want to put Mr. Olivero in a tight spot
10 by springing it on him right now.

11 MR. OLIVERO: No, I think that would be fine.
12 I was expecting Brett Seagle who is the case manager
13 to be down here. But without him -- I could make a
14 quick call to see if that is fine, but I don't
15 suspect that it would be an issue to move it back one
16 day. But I would like to touch base with him, if I
17 could.

18 MS. LIN: I am e-mailing right now to see if he
19 will answer back.

20 MR. OLIVERO: Thank you, Jennifer.

21 JUDGE JONES: We will get back to that specific
22 date in a moment. So what Mr. Flynn has just

1 proposed as a schedule for the case, the date that
2 was just being discussed would be possibly on January
3 20 in the proposal would be potentially the
4 evidentiary hearing date. That would be the date on
5 which parties would have an opportunity to
6 cross-examine each other's witnesses, if they had
7 cross examination questions for them. Most of the
8 earlier dates that were mentioned were testimony
9 filing dates.

10 October 13 was proposed as the date
11 for Staff and Intervenor testimony filings. So those
12 filings would be made with the Commission in writing
13 pursuant to a schedule and would be served on other
14 parties. And in turn then those filings would appear
15 on e-Docket so they would be accessible to others to
16 see them.

17 And a status hearing date was proposed
18 for November 5. If that occurs pursuant to an
19 adopted schedule, that would be one that would be
20 permissible for parties to participate by telephone.

21 The next date that was proposed was a
22 Company rebuttal date, Friday, November 13. Again,

1 the Company will make that filing if that schedule is
2 adopted. The company will make that filing in
3 writing and serve copies on other parties in the case
4 which would include the Commission Staff and any
5 Intervenor.

6 Then Staff and Intervenor would have
7 another opportunity to file testimony for rebuttal
8 purposes but that would be two-fold. They would have
9 the opportunity to file written testimony and
10 exhibits in response to the Ameren rebuttal on
11 November 13. But Staff and Intervenor on that date
12 would also have the opportunity to file testimony in
13 response to each other on that same date, at least
14 under the proposal in this docket.

15 Then the final testimony filing date
16 was one for Ameren surrebuttal, is that correct?

17 MR. FLYNN: Yes, Judge.

18 JUDGE JONES: And what was the date of that
19 one?

20 MR. FLYNN: The date of that one was Wednesday,
21 December 22.

22 MR. OLIVERO: Actually, that might be a

1 Tuesday.

2 MR. FLYNN: Okay, well.

3 MR. OLIVERO: We may have sent that to you
4 incorrectly. I didn't check that.

5 MR. FLYNN: What do you have on your calendar?

6 MS. LIN: 12/22 is a Tuesday.

7 MR. FLYNN: All right, Tuesday, December 22, to
8 remove any ambiguity as to whether we intended the
9 Wednesday or a Tuesday.

10 JUDGE JONES: As noted, the other date in
11 there, the evidentiary hearing date, would be a date
12 on which parties would have the opportunity to
13 cross-examine each other witnesses, if they had any
14 such cross examination to conduct.

15 Now, if parties file testimony, be
16 they Ameren, Staff or Landowner Intervenor and no
17 one has cross examination for them, there is no other
18 objections to their testimony, then a procedure will
19 be put into place so that they can offer their
20 testimony into the record without having to
21 physically appear at a hearing. We don't know at
22 this time whether there will be such situations, but

1 in the event that there is testimony from witnesses
2 that no one has cross examination for or other
3 objections to, then there will be an opportunity to
4 put that testimony into the evidentiary record
5 through some means other than requiring the witnesses
6 to appear at a hearing and to offer it.

7 So that is essentially the schedule
8 that's been outlined so far on the record. We turn
9 to Commission Staff. Is that schedule acceptable to
10 the ICC Commission Staff?

11 MS. LIN: I haven't heard back from Brett yet,
12 so.

13 MR. OLIVERO: Other than the evidentiary
14 hearing date, yes, the schedule as proposed was what
15 we agreed to.

16 JUDGE JONES: Thank you. Now, does anyone else
17 have any questions about how that schedule works?

18 MR. LAWLER: It will show on the website,
19 right?

20 JUDGE JONES: That's correct. That schedule
21 will appear on the ICC website as a ruling. I will
22 issue a ruling with that schedule in there and that

1 will appear on the ICC website. Was that you,
2 Mr. Lawler?

3 MR. LAWLER: Yes, it was. I am sorry, I should
4 have identified myself.

5 JUDGE JONES: No problem. Does anybody else
6 have any questions about how that proposed schedule
7 works? Let the record show no response.

8 Does anyone have any objections to
9 adopting that schedule that was proposed on the
10 record and supported by the ICC Commission Staff?

11 MR. LAWLER: Attorney Lawler has no objection.

12 JUDGE JONES: All right. Thank you. Let the
13 record show that the schedule that was proposed for
14 the record is hereby adopted for purposes of this
15 proceeding. As noted, there is still some
16 uncertainty about the specific date of the
17 evidentiary hearing that will need to be resolved at
18 some point in the relatively near future. The two
19 dates under consideration are January 20 which is a
20 Wednesday and January 21 which is a Thursday. Before
21 we conclude this hearing, we will specify one of
22 those two dates as a hearing date, although that may

1 need to be changed at a later point in time, given
2 other factors. We may know before we finish whether
3 that date of the 21st is acceptable.

4 MS. LIN: Judge, in the meantime do you want to
5 set a time for the status hearing on November 5?

6 JUDGE JONES: That's probably a good idea. Is
7 10:00 a.m. acceptable for various parties?

8 MR. FLYNN: It is acceptable to the petitioner.

9 MR. OLIVERO: That's fine with Staff. Is that
10 fine with you, Jennifer?

11 MS. LIN: Yes, I believe so.

12 MR. LAWLER: It is fine with the Intervenor.

13 JUDGE JONES: Thank you. So we will set that
14 for 10:00 a.m. Again, participation by telephone
15 will be permitted at that status hearing.

16 We have mentioned a couple of times
17 this morning the ICC Commission website, and that
18 website, in addition to details of this specific
19 proceeding, has details of many other proceedings on
20 there, including other transmission line cases, for
21 those who believe it will be helpful to review
22 filings in those in contemplation of participating in

1 this case.

2 Also on the Commission's website are
3 such things as the applicable statutes and also the
4 Commission's rules of practice, and the rules of
5 practice are part of the administrative rules that
6 govern various things at the Commission. But the
7 rules of practice are part of those administrative
8 rules and they also are contained on the Commission's
9 website where they can be accessed and reviewed.

10 Mr. Olivero, do you have the
11 Commission's website in front of you there you could
12 read into the record?

13 MR. OLIVERO: Actually, no, I don't. Jennifer,
14 do you have that handy?

15 MS. LIN: Yes, hold on one second. It is
16 www.icc.illinois.gov.

17 JUDGE JONES: That's the one, www.illinois.gov
18 and it gets you directly into the Commission's
19 website. And under the e-Docket portion of that
20 website you can pull up, by use of the docket number
21 in this case, the various filings and other
22 information regarding this docket. And, of course,

1 that docket number that you will use to access that
2 is 09-0290. That's the same docket number that
3 appears on the face of the notice of this hearing
4 today.

5 MR. OLIVERO: Your Honor, I was wondering if we
6 could take a short recess to allow me to run up and
7 see if Brett Seagle is here to allow me to confirm a
8 date on that evidentiary hearing.

9 JUDGE JONES: We could take just a couple
10 minutes for that purpose to try to run him down.

11 MR. OLIVERO: If you don't mind.

12 JUDGE JONES: So for that purpose we hereby go
13 off the record.

14 (Whereupon there was then had an
15 off-the-record discussion.)

16 JUDGE JONES: Back on the record. There was a
17 short off-the-record discussion for the purposes
18 indicated, primarily to pin down an evidentiary
19 hearing date. Mr. Olivero, is January 21 the date
20 that's acceptable?

21 MR. OLIVERO: That was acceptable with Staff,
22 Your Honor, that's correct.

1 JUDGE JONES: Does AmerenIP or anyone else have
2 any objection to that specific date?

3 MR. FLYNN: The petitioner does not.

4 MR. LAWLER: Intervenor does not.

5 JUDGE JONES: Thank you. All right. So the
6 schedule is in place. As noted, there will be a
7 notice that will be sent out and put on e-Docket that
8 will contain it as well.

9 So I think that covers the basis for
10 this prehearing conference. Do the parties,
11 potential parties or others, have anything else for
12 the record before we conclude this prehearing
13 conference?

14 MS. LIN: Judge, in order for me to be more
15 obsessive, do you want to set a time for the
16 evidentiary hearing on January 21?

17 JUDGE JONES: We could set a default time of
18 10:00 a.m. I think we will probably know a little
19 more between now and then in terms of how much time
20 we will need, but we will go ahead and set that for
21 10:00 a.m. Is that agreeable to others?

22 MR. FLYNN: Yes, 10:00 is fine.

1 MR. OLIVERO: Fine.

2 MR. LAWLER: Agreeable to the Intervenor.

3 JUDGE JONES: Okay, thank you. Anything else?

4 That's it then for today's purposes. The schedule is

5 in place. It will appear on e-Docket. Thanks to the

6 parties and others for your participation this

7 morning both in person and on the phone.

8 At this time then let the record show

9 that subject to the above-referenced schedule which

10 itself will appear on e-Docket, this matter is

11 continued to a status hearing date at which parties

12 may participate by telephone to be held on November 5

13 at the hour of 10:00 a.m. Thank you, all.

14 (Whereupon the hearing in this

15 matter was continued until

16 November 5, 2009, at 10:00 a.m.

17 in Springfield, Illinois.)

18

19

20

21

22